

48A C.J.S. Judges § 171

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

VI. Authority, Powers, and Duties

G. Territorial Limitations

§ 171. Exchange of districts

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West's Key Number Digest

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Some states have statutes or constitutional provisions authorizing judges, on their own initiative, to exchange judicial districts or circuits.

Some states have statutes or constitutional provisions authorizing judges, on their own initiative, to exchange judicial districts or circuits.¹ Constitutional and statutory provisions allowing district judges to exchange districts or to hold court for each other "when they deem it expedient" confer on district judges broad discretionary powers to exchange benches² on their own initiative,³ accordingly, the exercise of this discretion is reviewable only for abuse.⁴

Under a statute providing that circuit judges may interchange with each other or with judges of special courts "when causes exist making an interchange necessary, or for mutual convenience," the interchange may be for the entire circuit, a single term, a part thereof, or for a special case.⁵ Moreover, there is no requirement that application be made to the chief justice for assignment of a judge to a particular case in order to obtain an interchange of judges.⁶

Similarly, under a provision allowing district judges to exchange districts "when they deem it expedient," it is not necessary that either the docket or minutes give a reason for the exchange of benches by the district judges, and a formal order of exchange need not be entered⁷ even though the better practice would be to require a formal order or entry on the record of the reasons for the exchange.⁸ Furthermore, a statute providing that judges agreeing to an exchange of circuit must sign an agreement does not make judges' affixing their signatures to the agreement a jurisdictional act necessary to effect the exchange; rather, it is the enactment of the statute authorizing the exchange of judges, and the judges' agreement thereunder, that empowers a "judge-on-exchange" to assume authority to hear or try a case.⁹

Where judges exchange districts, the instant one of them enters the district of the other he or she becomes judge thereof, and the resident judge becomes judge of the district for which he or she has exchanged.¹⁰ The "judge-on-exchange" has the same power and jurisdiction as the judge he or she replaced.¹¹ Such power ceases, however, on expiration of the time fixed by the exchange agreement despite the consent of the parties to the judge continuing to exercise jurisdiction.¹²

A statute authorizing an interdistrict exchange between judges does not authorize an exchange agreement among circuit and chancery judges within a single district or an intradistrict exchange.¹³

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Footnotes

1 Ark.—[Lynch v. State](#), 315 Ark. 47, 863 S.W.2d 834 (1993).

Tenn.—[Dupuis v. Hand](#), 814 S.W.2d 340 (Tenn. 1991).

Tex.—[Sanchez v. State](#), 365 S.W.3d 681 (Tex. Crim. App. 2012).

2 Tex.—[Floyd v. State](#), 488 S.W.2d 830 (Tex. Crim. App. 1972).

3 Tex.—[Ex parte Lowery](#), 518 S.W.2d 897 (Tex. Civ. App. Beaumont 1975).

4 Tex.—[Floyd v. State](#), 488 S.W.2d 830 (Tex. Crim. App. 1972).

5 Tenn.—[Dupuis v. Hand](#), 814 S.W.2d 340 (Tenn. 1991).

6 Tenn.—[Dupuis v. Hand](#), 814 S.W.2d 340 (Tenn. 1991).

7 Tex.—[Celestine v. Department of Family and Protective Services](#), 321 S.W.3d 222 (Tex. App. Houston 1st Dist. 2010).

8 Tex.—[Floyd v. State](#), 488 S.W.2d 830 (Tex. Crim. App. 1972).

9 Ark.—[Lynch v. State](#), 315 Ark. 47, 863 S.W.2d 834 (1993).

10 Ark.—[McEachin v. Martin](#), 193 Ark. 787, 102 S.W.2d 864 (1937).

11 Tenn.—[Dupuis v. Hand](#), 814 S.W.2d 340 (Tenn. 1991).

12 Ark.—[Kory v. Dodge](#), 174 Ark. 1156, 298 S.W. 505 (1927).

13 Ark.—[Lee v. McNeil](#), 308 Ark. 114, 823 S.W.2d 837 (1992).